



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,166	04/04/2001	Yoshihisa Gonno	7217/64310	4029

7590 10/28/2005

JAY H. MAIOLI  
COOPER & DUNHAM LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

CHANG, JUNGWON

ART UNIT	PAPER NUMBER
----------	--------------

2154

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/826,166

Applicant(s)

GONNO ET AL.

Examiner

Jungwon Chang

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6-8 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Office Action is response to amendment filed on 9/26/2005. Claims 1-3, 6-8 and 10-13 are presented for examination.
2. The rejection of claims 1-8 and 10-13 under U.S.C. 112, first paragraph is hereby withdrawn in view of amendment filed on 9/26/2005.
3. The rejection of claims 1-8 and 10-13 under U.S.C. 112, second paragraph is hereby withdrawn in view of amendment filed on 9/26/2005.
4. The objection to specification is hereby withdrawn in view of amendment filed on 9/26/2005.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2154

6. Claims 1 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Aggarwal et al. (US 6,477,180), hereinafter Aggarwal.

7. As to claims 1 and 12, Aggarwal discloses the invention as claimed, including a managing apparatus for managing data necessary for delivering a digital content (managing channels of varying bandwidths and a plurality of objects which are to be delivered via these channels; col. 2, lines 10-62), comprising:

reserving means for reserving a delivery resource for the content (user interfaces having a capability for selecting digital objects to be transmitted; col. 1, line 56 – col. 2, line 4);

assigning means for adjusting a bandwidth and a transmission time necessary for delivering the content and for assigning the bandwidth and the transmission time to the reserved delivery resource (managing channels of varying bandwidths; col. 2, lines 10-16 and 46-62; dynamically deciding which delivery times are profitable and offering a customer a number of delivery time options; col. 2, lines 25-45 and 47-62; alternate delivery time; col. 9, lines 45-65);

storing means for storing the bandwidth and the transmission time to the reserved delivery resource (scheduler 12, fig. 1; col. 2, lines 46-62; col. 9, lines 35-60);  
and

transmitting means for transmitting an information of the content and the reserved delivery resource information that includes the bandwidth and the transmission time (transmission source, 20, fig. 1; transmissions from transmission source 20 are

Art Unit: 2154

received by receivers or user interfaces 22; col. 4, line 57 – col. 5, line 21),

wherein a delivery resource is assigned corresponding to a convenience of a content provider (optimizing transmission resources to provide efficient and profitable transmission of digital objects; col. 1, lines 9-12; optimizes the revenue and ultimately the profits of e-commerce merchant's delivery service; col. 1, lines 27-42; col. 3, lines 30-42).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 6-8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusaba et al. (US 6,510,556), hereinafter Kusaba, in view of Weber et al. (US 6,330,225), hereinafter Weber and Kobayashi et al. (US 6,473,096), hereinafter Kobayashi.

10. As to claims 2 and 13, Kusaba discloses a managing apparatus for managing data necessary for delivering a digital content (col. 1, lines 6-14), comprising:

content list displaying means for displaying a list of contents that can be delivered (personal computer 123, figs. 2 & 7; fig. 4B; col. 3, lines 48-65; col. 4, lines 7-56);

reservation state displaying means for displaying a reservation state of a delivery resource (personal computer 123, figs. 2 & 7; fig. 4C; col. 3, lines 48-65; title is displayed in each line of the time table 421, thus the view can know the present reservation situation; col. 4, lines 7-56);

content selecting means for selecting a content from said displayed list of contents (personal computer 123, figs. 2 & 7; fig. 4C; col. 3, lines 48-65; movie is selected by a mouse pointer 401; col. 4, lines 7-56; viewer clicks the reserve button 424 and the request can be accepted; col. 5, lines 23-47);

operating means for assigning a delivery resource for delivering the selected content as an area on the reservation state displaying means from the list of contents to the reservation state of a delivery resource (scheduler 105, figs. 2 & 7; when the view clicks the reserve button 424 and the request can be accepted, the client software transmits the inputted reservation contents to the scheduler 105... The title of the video image to be distributed, the designation of the channel, and the start time of the distribution are included in the reservation contents; col. 5, lines 23-47); and

automatic assignment means for automatically calculating a transmission time necessary for delivery the selected content by shaping the area (col. 4, lines 23-32; col. 5, lines 23-30; figs. 4C-F); and

wherein a delivery resource is assigned corresponding to a convenience of a content provider (col. 4, line 57 – col. 5, line 22; figs. 4C & 4D).

11. Kusaba does not specifically disclose drag and drop operation. Kobayashi

Art Unit: 2154

discloses drag and drop operation (col. 9, lines 29-35 and 51-60; col. 22, claim 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kusaba and Kobayashi because Kobayashi's graphical user interface for supporting drag and drop operation would allow the user to move selected contents to a desired sub area in the contents display area (Kobayashi, col. 9, lines 51-60).

Kusaba does not specifically disclose calculating a bandwidth. Weber discloses calculating a bandwidth (figs. 2a and 2b; col. 3, line 55 – col. 4, line 11; col. 7, lines 16-22). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kusaba and Weber because Weber's calculating bandwidth for delivering the content in order to provide predictable and differential quality of service guarantees for different data flows while at the same time minimizing the size and cost of the system (Weber, col. 2, lines 9-25).

12. As to claim 3, it is rejected for the same reasons set forth in claim 2 above. In addition, Kusaba discloses transmitting means for transmitting the content using the assigned channel and transmission time (CATV transmitting apparatus 118, fig. 7; satellite transmitting apparatus 112, fig. 2; col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

13. As to claim 6, Kusaba discloses converting means for converting the format of

Art Unit: 2154

each content corresponding to a reserved delivery resource (col. 3, lines 38-47; col. 7, line 66 – col. 8, line 17).

14. As to claim 7, Kusaba discloses wherein a transmission resource is reserved for each content, the transmission resource being composed of a limited transmission band and transmission time, and wherein each content is transmitted corresponding to the reserved transmission resource information (col. 4, line 57 – col. 5, line 22; figs. 4D & 4D).

15. As to claim 8, Kusaba discloses a plurality of transmission paths (satellite, cable and internet; col. 8, line 58 – col. 9, line 13). However, Kusaba does not specifically disclose selecting a plurality of transmission paths. Web discloses selecting a plurality of transmission paths (515, fig. 5; fig. 8; a set of channels is selected to carry the data flow from initiator to target; abstract; an available channel is chosen to carry the initiator channel step 515...one could choose the channel; col. 5, lines 25-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Kusaba and Weber because Weber's a plurality of transmission paths would optimize the overall system performance by choosing the channel that most closely matches the performance requirements of the initiator's data flow (Weber, col. 5, lines 25-39).

16. As to claim 10, Kusaba discloses wherein a reservation state can be browsed



Art Unit: 2154

from one or more distributed environments (figs. 2 & 74 col. 4, lines 7-56).

17. As for claim 11, Kusaba discloses wherein a delivery resource can be reserved from one or more distributed environments (col. 4, line 57 - col. 5, line 224 Figs. 4C & 4D).

### ***Conclusion***

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Agarwal et al, patent 6,539,003, Wang et al, patent 6,826,160, Willis et al, patent 6,385,647, Chawla, patent 6,360,368, Birdwell, patent 6,041,359 disclose a method and system for delivering multimedia using the bandwidth associated with a network.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jungwon Chang whose telephone number is 571-272-3960. The examiner can normally be reached on 9:30-6:00 (Monday-Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2154

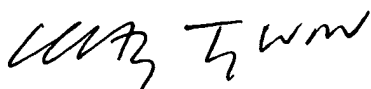
published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Jungwon Chang'.

Jungwon Chang  
October 27, 2005